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Opinion Committee

January 28, 1998

FILE # ML-40048-98
I.D. # 40048

The Honorable Dan Morales
Attorney General, State of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RQ-1078

Dear General Morales:

In my capacity as Chairman of the Committee on Jurisprudence of the Texas State Senate, I request an official opinion from your office regarding the permissibility and conditions for employment of local elected officials by state legislators.

Article 16, Section 40 of the Texas Constitution states that, "[s]tate employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns or other local governmental districts; provided, however, that such State employees or other individuals shall receive no salary for serving as members of such governing bodies."

My first question is: Under the constitution, state law and legal precedent, are legislators permitted to hire, with full-time compensation and benefits comparable to other legislative and committee staff, persons serving as local elected officials? If so, what are examples of officials permitted for employment by legislators? What are examples of officials who would not be eligible for employment in legislative offices?

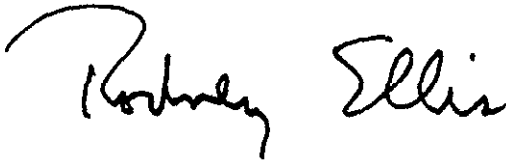
My second question is: Assuming there are certain types of officials permitted for employment by State officers, what restrictions are provided in law for salary and other emolument earned by persons concurrently employed by the State of Texas while serving in a local elected office? What emolument is permitted and not permitted under law for such individuals?

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My final question is: Should an eligible local elected official be employed by a State officer, would special budgetary or record keeping arrangements be necessary by that officer to comply with state laws or conventions governing such employment?

Thank you in advance for your assistance with this request. Please contact my office at (512) 463-0113 should you have any questions or need further information.

Sincerely,

A handwritten signature in black ink, reading "Rodney Ellis". The signature is written in a cursive, flowing style. The first name "Rodney" is written with a large, sweeping initial "R". The last name "Ellis" is written in a more compact, cursive script.

Rodney Ellis

RE:rs

cc: The Honorable Bob Bullock
Members, Texas Senate